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SUPREME COURT, U. S.

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1969

No. 555

JOSEPH F. SCHINDELER, D.V.M., Petitioner

v.

DAVID L. MICHAUD, ROBERT E. BROWN, HAROLD ERB, and KENNETH T. COLWELL, *Administrator of the Estate of* ROBERT A. WELSH, Deceased, Respondents

BRIEF IN OPPOSITION TO THE PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

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Respondents pray that the Petition for Writ of Certiorari be denied.

The facts of this case are accurately set forth in the opinion of the Court of Appeals for the Tenth Circuit. Petitioner, plaintiff in the trial court, has construed the facts in the light most favorable to himself in a case involving highly disputed evidence after the jury has found in favor of Respondents, defendants in the trial court. This is a simple case involving the question of whether or not police officers used excessive force in making an arrest. The facts as to the force used were in direct conflict and these conflicts were resolved by the jury in favor of the officers.

Significantly Petitioner admits that before the arrest he struck officer Erb twice and smashed the windshield of the patrol car with a shovel (Petition for cert. 4 and 21). Officer Erb then obtained help from two more officers, returned to Petitioner's residence where, though the evidence of what happened then is in direct conflict, another scuffle ensued and the plaintiff was arrested. The jury decided that the officers had exercised reasonable force in making the arrest. The Court of Appeals affirmed.

The facts have been heard and decided by the jury and have been reviewed by the trial court and the Court of Appeals. There is no reason for this Court to review this case.

Respectfully submitted,

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